



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

ENVIRONMENTAL PROTECTION AGENCY
SEP 12 1994
MONTANA

SEP - 8 1994

Ref: 8RC

1068897 - R8 SDMS

Bob Raisch, Supervisor
Planning and Technical Support Section
Montana Air Quality Division
Montana Department of Health and Environmental Sciences
Cogswell Building
Helena, Montana 59260

RE: CERCLA Liability Associated with Improper Disposal of
Materials Collected by Street Sweepers

Dear Mr. Raisch:

Pursuant to our telephone conversation last week, I am writing to clarify the position of the United States Environmental Protection Agency (EPA) with respect to disposal of materials collected by street sweepers in East Helena.

You indicated that Asarco Incorporated is currently disposing of the material collected by street sweepers, which has been identified as containing fine lead particles in concentrations ranging from 400 ppm to 40,000 ppm, directly onto the ground within approximately 300 yards of Asarco's company housing. A large dust cloud forms above the dumping site and migrates from there whenever a load of material is dumped from the street sweeper.

In response to your queries concerning the liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) that would be associated with a release of hazardous substances from the dumping site, all owners or operators of the site, generators of the contaminated materials, and transporters of such materials to the site would be considered liable parties under CERCLA. Thus, should the City of East Helena operate the street sweepers and take the collected materials to a site from where there is a release of hazardous substances into the environment, the city would be jointly and severally liable for any response costs incurred by the United States government or the State in responding to such release.

EPA advises that the State, through its air, RCRA or solid waste regulatory authorities, take immediate actions to prevent additional releases into the air and other media caused by the disposal of street sweeping materials.



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Please feel free to contact me at (303) 294-7591 if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Suzanne J. Bohan', with a large, stylized initial 'S'.

Suzanne J. Bohan
Assistant Regional Counsel

cc: Jim Madden
Scott Brown
Stephanie Wallace
Terry Lukas